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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/853,891

05/11/2001

Luc Wuidart

S1022/8567

6160

23628

7590

04/20/2005

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EXAMINER

ZIMMERMAN, BRIAN A

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/853,891

Applicant(s)

WUIDART, LUC

Examiner

Brian A Zimmerman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 2/18/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8 and 10-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4-8,10 and 11 is/are allowed.
- 6) ☒ Claim(s) 12,13,17,19,20,25-28,32,34 and 35 is/are rejected.
- 7) ☒ Claim(s) 14-16,18,21-24,29-31,33 and 36-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/18/05 and 3/21/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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Status of Application

In response to the applicant's amendment received on 2/18/05. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 12,13,17,19,20,25-28,32,34,35 remain unpatentable for the reasons set forth in this office action:

Allowable Subject Matter

1. Claims 1,2,4-8,10,11 are allowed.
2. Claims 14-16,18,21-24,29-31,33,36-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 12,13,17,19,20,25-28,32,34,35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mabry (6330971) and Rodgers (6340932).

Mabry shows an interrogation system where the interrogator/reader detects the presence of the transponder by comparing properties of the

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oscillating circuit. Upon detecting the presence of a transponder, Mabry then uses another signal from the antenna to read and communicate with the transponder. See col. 8 lines 34-46. Mabry does not expressly show changing in the interrogation signal(s). In an analogous art, Rodgers shows an interrogation system where the reader tunes the antenna to different frequencies to scan different frequencies and enable the reader to read tags that operate at different frequencies. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used frequency scanning as suggested by Rodgers in the reading phase of Mabry since such would enable the system to be used to read transponders of various manufacturers that communicate on different frequencies.

Response to Arguments

Applicant's arguments filed 2/18/05 have been fully considered but they are not persuasive.

The applicant argues that Mabry indicates that the reader detects the presence of an input cassette but is silent regarding how the reader detects such presence. Mabry is not cited for teaching such features. Rodgers is cited for teaching tuning the reader to scan different frequencies to enable the reader to detect the presence and read tags that operate at different frequencies. Having tags that operate at different frequencies can occur for a plurality of reasons. For example, having multiple frequencies can improve the bandwidth sharing of the

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system or could be a result of using tags from different manufactures. Permitting the reader to read tags from multiple manufactures means the system is not married to a specific tag (manufacturer) for operation.

The applicant argues that Mabry does not disclose the desire to read transponders of various manufacturers (sic) or that communication on different frequencies. The applicant intends this statement to support an argument that there would not be motivation to combine the Mabry reference with the teachings of Rodgers. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or **in the knowledge generally available to one of ordinary skill in the art**. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Rodgers is cited for teaching tuning the reader to scan different frequencies to enable the reader to detect the presence and read tags that operate at different frequencies. Having tags that operate at different frequencies can occur for a plurality of advantageous reasons. For example, having multiple frequencies can improve the bandwidth sharing of the system or could be a result of using tags from different manufactures. Permitting the reader to read tags from multiple manufactures means the system is not married to a specific tag (manufacturer) for operation. With all the transponders available on the market, the ability to communicate with all or any possible transponder is a very desirable feature to one of ordinary skill in the art.

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The applicant argues that Mabry does not detect whether a transponder is present by comparing a present value of a parameter corresponding to an electric property of the oscillating circuit to a predetermined value of the parameter. On col. 8 lines 34+, Mabry detects the presence of a transponder by waiting for a change to occur in the oscillating circuit. "Waiting for a change to occur" is the same function as comparing the present parameter to the past parameter where the past parameter is considered a predetermined parameter value.

This is an RCE of applicant's earlier application with the same number. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will

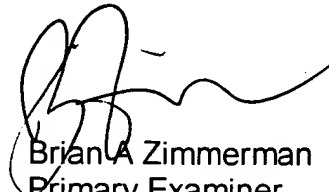
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the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian A Zimmerman
Primary Examiner
Art Unit 2635

BAZ